

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 822 of 2008**

- Ramesh Gupta aged about 27 years, S/o Ramlal Gupta, R/o Village-Muksabad, P.S. Baksha, District-Jaunpur, Utter Pradesh, At present R/o Bharat Petroleum Corporation Ltd. Durg, Bhilai, (3), District-Durg, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through P.S. Basna, District-Mahasamund, C.G.

---- Respondent

For Applicant	:	Mr. Manoj Pranjpe, Adv.
For Respondent/State	:	Mr. Anil Tripathi, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****11/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 22.12.2008 passed by the learned Sessions Judge Mahasamund, District-Mahasamund C.G. in Criminal Appeal No. 103/2008 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Mahasamund, vide its judgment dated 14.08.2008 in Criminal Case No. 09/2008 for the offence under Section 304(A) of IPC and sentenced him to undergo R.I. for 6 months with fine of Rs. 500/-, plus default stipulation.
2. Brief facts of the case are that, one G.S. Sahu lodged an FIR alleging that on 17.01.2008 the applicant was driving the truck tanker bearing registration No. CG-04-E-8737 in rash and negligent manner and dashed the deceased Shurulal @ Deenbandhu Ganda and ran away from the spot due to the incident deceased sustained grievous injuries and subsequently died. After completion of investigation, charge sheet was filed and

charges were framed by the trial Court against accused/applicant under Section 304(A) of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 9 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.
4. After hearing the parties, vide judgment of conviction and order of sentence dated 14.08.2008, learned Judicial Magistrate First Class has convicted and sentenced the accused/applicant for the offence under Section 304(A) of IPC and sentenced him to undergo R.I. for 6 months and to pay fine of Rs. 500/-, with default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court affirmed the conviction, and sentence of the applicant as described above in para-1 of this order. Hence, the present revision.
5. Learned counsel for the applicant submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2008, and thereby more than 12 years have rolled by since then. He is aged about 40 years. The applicant has already remained in jail for about one and a half month, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon the applicant may be reduced to the period already undergone by him.
6. Learned counsel for the State has no objection to this preposition.
7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.
8. Having gone through the material on record and the evidence of the witnesses Munni Lal (PW-1), Sandesh Kumar Agrawal (PW-2), Dr. R. N. Das (PW-3), R. N. Saxena (PW-6), Gaurang Pradhan (PW-7), G. L. Sahu (PW-8), and Digri Lal (PW-9), established the

involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Section 304(A) of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2008, and further that the appellant has already remained in jail for about one and a half month, therefore, his sentence is liable to be reduced to the period already undergone by him.
10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond will stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**